

NOTICE OF OBJECTION TO CONFIRMATION

WELLS FARGO BANK, N.A. has filed papers with the Court to object to the Confirmation of the Chapter 13 Plan.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to object to the Confirmation of the Chapter 13 Plan, or if you want the Court to consider your views on the Objection, then on or before, you or your attorney must:

File with the Court an answer, explaining your position at:

**Clerk
U.S. Bankruptcy Court
402 E. State Street
Trenton, NJ 08608**

If you mail your response to the Court for filing, you must mail it early enough so that the Court will *receive* it on or before the date stated above.

You must also mail a copy to:

Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054

ALBERT RUSSO
STANDING CHAPTER 13 TRUSTEE
CN 4853
TRENTON, NJ 08650-4853

Attend the hearing scheduled to be held on 03/14/2017 in the TRENTON Bankruptcy Court, at the following address:

**U.S. Bankruptcy Court
402 E. State Street
Trenton, NJ 08608**

If you or your attorney do not make these steps, the Court may decide that you do not oppose the relief sought in the Objection and may enter an Order granting that relief.

Date: January 24, 2017

/s/ James P. Shay
James P. Shay, Esq.
Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054

Tel: 856-813-5500 Ext. 41326

Fax: 856-813-5501

Email: james.shay@phelanhallinan.com

File No. 787012

Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road
Mt. Laurel, NJ 08054
856-813-5500
FAX Number 856-813-5501
WELLS FARGO BANK, N.A.

In Re:

KEITH W. NELMS
KATHLEEN P. NELMS

Debtors

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE

Chapter 13

Case No. 17-10060 - MBK

Hearing Date: 03/14/2017

The undersigned, Phelan Hallinan Diamond & Jones, PC, attorneys for Secured Creditor, WELLS FARGO BANK, N.A., the holder of a Mortgage on debtors' residence located at 119 DRIFTWOOD LANE, LANOKA HARBOR, NJ 08734, hereby objects to the Confirmation of the debtors proposed Chapter 13 Plan on the following grounds:

1. Movant is WELLS FARGO BANK, N.A.
2. Debtors, KEITH W. NELMS, KATHLEEN P. NELMS, are the owners of the property located at 119 DRIFTWOOD LANE, LANOKA HARBOR, NJ 08734.
3. Movant is in the process of drafting and filing a Proof of Claim. The approximate arrears are \$28,482.42.
4. Debtors' Plan fails to cure the delinquency pursuant to 11 U.S.C. §1322(b)(5).
5. Debtors' Plan currently provides for payment to Movant in the amount of \$0.00. A copy of the Debtors' Plan is attached hereto as Exhibit "A" and made a part hereof.
6. Debtors' Plan provides for the Debtors' pursuit of a loan modification. Debtors' Plan is speculative in nature in that the Plan contemplates curing the arrears through a loan modification that has neither been offered nor approved.

7. Movant objects to Debtors' Plan as it is underfunded. Debtors' Plan should be amended to fully fund the arrears owed to Movant. Confirmation of Debtors' proposed Plan should be denied.

8. Additionally, Debtors' Plan fails to provide for the full monthly post-petition payment owed to Movant under the terms of the Note and Mortgage. Movant objects to any post-petition payment amount less than 100% of what is required. Accordingly, confirmation of Debtors' proposed Plan should be denied.

WHEREFORE, WELLS FARGO BANK, N.A. respectfully requests that the Confirmation of Debtors' Plan be denied.

/s/ James P. Shay
James P. Shay, Esq.
Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054
Tel: 856-813-5500 Ext. 41326
Fax: 856-813-5501
Email: james.shay@phelanhallinan.com

Dated: January 24, 2017

Exhibit A

Last revised 8/1/15

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re

Case No.

Judicial District

Chapter

13

Debtor(s)

Chapter 13 Plan and Motions

☐ Origin

☐ Modified Notice Required

☐ Discharge Sought

☐ Motions Included

☐ Modified No Notice Required

☐ No Discharge Sought

Date

THE DEBTOR HAS FILED FOR REORGANIZATION UNDER
CHAPTER 13 OF THE BANKRUPTCY CODE

YOUR RIGHTS WILL BE AFFECTED

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan* which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney, someone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. **This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice.**

**YOU SHOULD FILE A PROOF OF CLAIM BY THE DEADLINE STATED
IN THE NOTICE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN
THAT MAY BE CONFIRMED, EVEN IF THE PLAN REFERS TO YOUR CLAIM**

Part 1: Payment and Length of Plan

- ☐ The debtor shall pay \$ per month to the Chapter 13 Trustee starting on for approximately months.
- ☐ The debtor shall make plan payments to the Trustee from the following sources
- ☐ Future earnings
 - ☐ Other sources of funding (describe source, amount and date when funds are received)

c. Use of real property to satisfy payment obligations

☐ Sale of real property

Description

Proposed date for completion

☐ Refinance of real property

Description

Proposed date for completion

☐ Loan modification with respect to mortgaged encumbered property

Description

Proposed date for completion

d. ☐ The required monthly mortgage payment will continue pending the sale, refinance or loan modification.

e. ☐ Other information that may be important relating to the payment and length of plan

Part 2: Adequate Protection

☐ Adequate protection payments will be made in the amount of \$ to be paid to the Chapter 13 Trustee and disburse preconfirmation to (creditor).

☐ Adequate protection payments will be made in the amount of \$ to be paid directly to the debtor(s) outside the Plan preconfirmation to (creditor).

Part 3: Priority Claims (Including Administrative Expenses)

Unsecured priority claims will be paid in full unless the creditor agrees otherwise

Creditor	Type of Priority	Amount to be Paid

Part 4: Secured Claims

a. Curing Default and Maintaining Payments

The Debtor shall pay to the Trustee its part of the Plan) secured claims for arrears on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows

Creditor	Counterparty Type of Debt	Arrears	Interest Rate on Arrears	Amount to be Paid to Creditor (In Plan)	Required Month Payment (Outside Plan)

b. Modification

1.) The debtor proposes counterparty indicated above. If the claim may be modified under Section 334(b) of the secured creditor shall be paid the amount listed as the value of the Creditor Interest in Counterparty plus interest as stated. The portion of unsecured claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having no O or U it shall be treated as an unsecured claim.

NOTE: A modification under this Section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.

Creditor	Counterparty	Scheduled Debt	Total Counterparty Value	Superior Liens	Value of Creditor Interest in Counterparty	Annual Interest Rate	Total Amount to be Paid

1.) Where the Debtor retains counterparty and completes the Payment of the full amount of the secured claim shall discharge the corresponding lien.

c. Surrender

Upon confirmation the stay is terminated as to surrendered counterparty. The Debtor surrenders the following counterparty

Creditor	Counterparty to be Surrendered	Value of Surrendered Counterparty	Remaining Unsecured Debt

d. Secured Claims Unaffected by the Plan

The following secured claims are unaffected by the Plan

e. Secured Claims to be Paid in Full Through the Plan

Creditor	Commitment	Total amount to be Paid Through the Plan

Part 5: Unsecured Claims

a. Not separately classified unsecured non-prioritized claims shall be paid

- ☐ Not less than \$ _____ to be distributed *pro rata*
- ☐ Not less than _____ percent
- ☐ *Pro Rata* distribution from remaining funds

b. Separately classified unsecured claims shall be treated as follows

Creditor	Basis For Separate Classification	Treatment	Amount to be Paid

Part 6: Executory Contracts and Unexpired Leases

Executory contracts and unexpired leases are rejected except the following which are assumed

Creditor	Nature of Contract or Lease	Treatment of Debtor

Part 7: Motions

NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service* must be filed with the Clerk of Court when the plan and transmittal notice are served.

a. Motion to Avoid Liens Under 11. U.S.C. Section 522(f).

The Debtor moves to avoid the following liens that impair exemptions

Creditor	Nature of Counterclaim	Type of Lien	Amount of Lien	Value of Counterclaim	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided

b. Motion to Avoid Liens and Reclassify Claim From Secured to Completely Unsecured.

The Debtor moves to reclassify the following claims as unsecured and to avoid liens on counterclaim consistent with Part 4 above

Creditor	Counterclaim	Amount of Lien to be Reclassified

c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured.

The Debtor moves to reclassify the following claims as partially secured and partially unsecured and to avoid liens on counterclaim consistent with Part 4 above

Creditor	Counterpart	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured

Part 8: Other Plan Provisions

a. Vesting of Property of the Estate

- ☐ Upon confirmation
- ☐ Upon discharge

b. Payment Notices

Creditors and lessors provided for in Parts 4-6 or may continue to make custom notices or coupons to the Debtor notwithstanding the automatic stay.

c. Order of Distribution

The Trustee shall pay the following claims in the following order:

- 1) Trustee commissions
- 2) _____
- 3) _____
- 4) _____

5) Unsecured Creditors

d. Post-Petition Claims

The Trustee is/is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 305 in the amount filed on the post-petition claimant.

Part 9: Modification

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being Modified: _____

Explain why the plan is being modified:

Explain how the plan is being modified:

Are Schedules I and J being filed simultaneously with this Modified Plan?

☐ Yes

☐ No

Part 10: Sign Here

The Debtor(s) and the attorney for the Debtor (if any) must sign this Plan.

Date _____

Attorney for the Debtor

I certify under penalty of perjury that the above is true.

Date _____

Debtor

Date _____

Joint Debtor

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)

787012
PHELAN HALLINAN DIAMOND & JONES, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054
856-813-5500
Attorneys for WELLS FARGO BANK, N.A.

In Re:

KEITH W. NELMS
KATHLEEN P. NELMS

Case No: 17-10060 - MBK

Hearing Date: 03/14/2017

Judge: MICHAEL B. KAPLAN

Chapter: 13

CERTIFICATION OF SERVICE

1. I, Marc Schroeder:

☐ represent the _____ in the above-captioned matter.

☒ am the secretary/paralegal for Phelan Hallinan Diamond & Jones, PC, who represents WELLS FARGO BANK, N.A. in the above captioned matter.

☐ am the _____ in the above case and am representing myself.

2. On January 24, 2017 I sent a copy of the following pleadings and/or documents to the parties listed below:

Objection to Plan

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: January 24, 2017

/s/ Marc Schroeder
Marc Schroeder

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
KEITH W. NELMS 119 DRIFTWOOD LANE LANOKA HARBOR, NJ 08734	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
KATHLEEN P. NELMS 119 DRIFTWOOD LANE LANOKA HARBOR, NJ 08734	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
George E Veitengruber, III, Esquire 1720 Highway 34 Suite 10 Wall, NJ 07727	Debtor's Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
ALBERT RUSSO STANDING CHAPTER 13 TRUSTEE CN 4853 TRENTON, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)

* May account for service by fax or other means as authorized by the court through the issuance of an Order Shortening Time.